IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

Second Appeal No.490/2006

Office Notes, Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. : Court's or Judge's orders

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CORAM : A.P.Lavande, J.
DATED : September 12, 2006

Heard Mr. Sirpurkar, Advocate for the appellants and Mr. Kakde, Advocate for respondents.

By this appeal, the appellants take exception to the judgment and decree dated 31st January, 2003 passed by Additional District Judge, Gondia in Regular Civil Appeal No.55/2001 dismissing the appeal filed by the appellants against judgment and decree dated 10th September, 2001 passed by Civil Judge, Sr. Dn. Gondia in Regular Civil Suit No. 124/1998.

The appellants who are original plaintiffs in the above suit sought declaration that they are owners of the suit property which was allotted to the father of

the appellants, being landless. The allotment was made by the Tahsildar. The plaintiffs challenged notice dated 13.5.1998 issued by Sub Divisional Officer by which he sought resumption of the land on the ground that the suit property could not have been allotted to the father of the plaintiffs. It is pertinent to note that the plaintiffs did not even place a copy of the order dated 13.5.1998 on record. The trial Court after appreciating the evidence led by the parties hold that the plaintiffs were not entitled for declaration that notice dated 13.5.1998 was null and void and consequently dismissed the suit. The appellate Court, after concurring with the findings given by the trial Court, dismissed the appeal filed by the plaintiffs.

I have heard Mr. Sirpurkar, learned counsel for the appellants. According to learned counsel, the land could not have been ordered to be surrendered by Sub Divisional Officer without paying compensation to the appellants-plaintiffs

and therefore, the impugned judgments and decrees passed by both the Courts below deserves to be quashed and set aside. I am unable to accept the submission of the learned counsel for the appellants inasmuch as no such ground appears to have taken before both the Courts below. Having perused the judgments of both the Courts below, I do not find any illegality or infirmity in both the judgments. In any case, I do not find any substantial question of law involved in the present appeal. Hence, the appeal is dismissed with no order as to costs.

JUDGE

A.